

THE EFFECTIVE DATE OF THIS ORDINANCE IS NOVEMBER 16, 2006

ORDINANCE NO. 06-38-434

OPINION, FINDINGS AND ORDINANCE
OF
THE BOARD OF COUNTY COMMISSIONERS
OF
FREDERICK COUNTY, MARYLAND

RE: APPLICATION OF JEFFERSON PIKE ASSOCIATES, INC.
(C/O CORE DEVELOPMENT GROUP, INC.)

REZONING CASE NO. R-05-10

OPINIONS/FINDINGS

Jefferson Pike Associates, Inc. (c/o Core Development Group, Inc.) filed this application to rezone 81.1 acres, more or less, of land from the Office Research Industrial (ORI) zone to the Mixed Use Development (MXD) Floating Zone, all as more fully described in the record. This property is located on the south side of Maryland route 180 (Jefferson Pike), and on the north side of US Route 340/15, west of and contiguous to the Jefferson Technology Park in the Frederick Planning Region.

Planning Division staff recommended approval of this request and recommended four conditions. The Frederick County Planning Commission recommended approval of the request with the four conditions recommended in the staff report.

Based on all the evidence submitted in this case, the Board makes the following specific findings of fact (in addition to the findings above) on each of the matters mentioned in Maryland Code Annotated, Article 66B, § 4.05(a):

1. POPULATION CHANGE.

The applicant has proposed 375 residential dwelling units in this Mixed Use Development with a residential component. This proposal would add approximately 1,001 people to the population.

2. AVAILABILITY OF PUBLIC FACILITIES.

A. SCHOOLS

As of March 31, 2006, Orchard Grove Elementary School is at 95% of capacity, Crestwood Middle School is at 90% of capacity, and Frederick High School is at 78% capacity. The MXD application states that no more than 375 dwelling units will be constructed on the site. Using the factors developed in the 2005 Frederick County Public Yield Survey, and depending upon the type of residential units constructed, the projected pupil yield for the project is as follows:

<i>Jefferson Park West MXD</i>		<u><i>Townhouse, 2/2 Units, Condos</i></u>	
	<i>Pupil Yield Factor</i>	<i>Total Number of Dwelling Units</i>	<i>Total Number of Students</i>
Elementary School Students	0.04/0.28	375	15/105
Middle School Students	0.02/0.10	375	8/38
High School Students	0.02/0.13	375	8/49
		<i>Total</i>	31/192

Ref: FCPS Staff (5/04/06)

B. FIRE AND RESCUE SERVICES

The proposed MXD would be served by the United Fire Company, located in Frederick City and approximately 2.75 miles from the site. The Westview Station of United Steam Fire Company No. 3 is located approximately 3 miles from the site. The Jefferson Technology Park Phase II Plan has identified a three (3) acre site for a fire and rescue station located on Maryland Route 180.

C. POLICE SERVICE

Police protection would be provided by the Frederick County Sheriff's Office and the Maryland State Police.

D. PARKS AND RECREATION FACILITIES

The Frederick Region Plan identifies one County-owned community park, Ballenger Creek Park, located approximately 0.5 miles south of the proposed MXD. This 127 acre park provides recreational amenities that include baseball fields, tot lots, picnic areas and volleyball. Including municipal and County parklands, the Frederick Region contains just under 1,000 acres of parkland area. The MXD proposal identifies a primary open space corridor running across the site as well as several smaller neighborhood green spaces and urban parks.

E. LIBRARIES

The proposed MXD would be served by the central library facility - C. Burr Artz - located in Frederick and approximately 3.5 miles from the site.

F. WATER AND SEWER

The site is classified W-4 Dev./S-4 Dev. (service in 4 - 6 years) in the County's Master Water and Sewerage Plan. Currently, water and sewer service are not provided on the site. Sewage is proposed to be conveyed under US 340/15 into both the Upper Pike Branch Interceptor and the Ballenger Interceptor (Phase 2) for treatment at the Ballenger Creek/McKinney Wastewater Treatment Plant (WWTP). There currently is limited remaining capacity at the Ballenger Creek WWTP. With the planned McKinney expansion, additional wastewater treatment capacity will be provided. The current Fiscal Year (FY) 2006 - 2011 Capital Improvements Program (CIP) identifies funding for phase one of the McKinney WWTP scheduled for FY 2006. The completion of phase one will provide an estimated 6 million gallons per day of additional sewage treatment capacity.

Planned water capacity will rely on the pending Potomac River water source and the New Design treatment plant upgrade project. The project also relies on the completion of the Ballenger Zone 2 Water Storage tank that will be located at the end of Fair Oaks Drive. This project includes the construction of a water main through nearby Parcel 109.

G. SUMMARY

Public facilities are or will be available to serve the proposed development, although phasing of project development to correspond with improvements to public facilities will be necessary and addressed at Phase II.

3. PRESENT AND FUTURE TRANSPORTATION PATTERNS.

The proposed MXD is located at the juncture of County and City roads, State highways and Interstate 70. The site is located on the south side of MD 180, north of U.S. 340/15, west of I-70 and adjacent to the Jefferson Technology Park. Development of the Jefferson Technology Park will include a new highway interchange with US 340/15. This interchange will serve the Jefferson Park West development and the vicinity and will serve as a primary route to decrease further development traffic on local roadways.

The Frederick Region Plan designates US 340/15, I-70 and I-270 as expressways. To the north of the site, MD 180 is designated as a minor arterial. A planned minor arterial road is shown crossing the site, connecting Crestview Boulevard with a collector road north of MD 180. This minor arterial will cross the remainder of the planned Advanced Technology Park, continuing (parallel to I-70) to Mt. Philip Road.

Traffic counts conducted by the Maryland State Highway Administration in its 2005 report the levels of vehicular traffic on major roads in the vicinity as follows:

Roadway (traffic count location)	Mt. Philip Road (0.1 miles south of US40alt)	Butterfly Lane (0.1 miles east of Mt. Philip Rd)	MD 180 (0.2 miles west of I-70)	US 15 (0.2 miles south of I-70)	US 40 (0.4 miles north of I-70/270)	US 340 (0.3 miles west of MD 180)	MD 80 (0.1 miles east of MD 75 south)	I-70 (0.5 miles west of MD 180)	I-70 (0.3 miles west of I-270)
AADT (Average Annual Daily Traffic-2005))	4,950	4,150	4,225	54,325	86,150	27,650	9,575	67,925	79,825

The developer of the Jefferson Technology Park is required to construct a full interchange with US 340/15. The applicant proposes two street connections with MD 180 that will serve the development, including the Street "A" designated as part of the Advanced Technology Park loop road. Also proposed is a separate access onto MD 180 that will serve the smaller of the two Employment Campuses of this development.

The State of Maryland continues to plan for the widening and improvement of I-70 westward to Mt. Philip Road. This work will include substantial improvements to MD 180 and MD 351 that have been initiated in recent months and are included in the State Highway Administration Consolidated Transportation Program. The applicant has stated its intention to cooperate with the developers of the Jefferson Technology Park to meet road adequacy requirements identified in the Adequate Public Facilities Ordinance testing for this project.

4. COMPATIBILITY WITH EXISTING AND PROPOSED DEVELOPMENT FOR THE AREA.

The entire 100.8 acre, more or less, parcel -- 81.1 acres of which are proposed to be rezoned to the Mixed Use Development (MXD) district -- is currently zoned Office Research Industrial (ORI). Immediately adjacent to the site

on the east is the Jefferson Technology Park, Mixed Use Development (MXD) zoned, which is currently in the Phase II development review process. To the south of the site is US 340/15, Ballenger Creek Meadows subdivision, zoned Planned Unit Development (PUD), and the Ballenger Creek Park. To the west is the New Life Foursquare Church and farmland, both zoned Agriculture (A). To the north of the site is the remaining portion of the Advanced Technology Park (of which this project is a part), currently zoned General Commercial (GC) and Agriculture (A). Also to the north are the Hargett and Overlook Planned Neighborhood Development (PND) subdivisions in the City of Frederick, as well as other residential developments. The proposed MXD is compatible with existing and proposed development.

5. RECOMMENDATION OF THE FREDERICK COUNTY PLANNING COMMISSION.

The Frederick County Planning Commission recommended approval of the MXD Floating Zone with four conditions.

6. RELATIONSHIP WITH THE FREDERICK COUNTY COMPREHENSIVE PLAN.

The proposed MXD zoning is consistent with the Office Research Industrial (ORI) land use designation in the Frederick Region Plan, adopted in 2002. The proposed density and land use configuration is consistent with the Frederick Regional Community designation in the Region Plan, and is within the growth boundary established in that Plan. The proposed MXD on this site will

further implement the development of the Advanced Technology Park as established in the Region Plan.

The Frederick Region Plan, adopted in 2002, designates this site as Office Research Industrial (ORI), with the exception of certain areas which are designated Resource Conservation (RC). While the majority of the parcel (approximately 81.1 acres) is designated ORI so as to allow the application of the MXD Floating Zone, the remaining approximately 19.7 acres are not. The applicant has requested the MXD Floating Zone on the approximately 81.1 acres which are eligible for the MXD Floating Zone. The proposed density and land use configuration is consistent with the Frederick City Regional Community designation in the Region Plan, and is within the growth boundary established in the Region Plan. The proposed MXD on this site will further implement the development of the Advanced Technology Park as established in the Region Plan.

Based on all the evidence submitted in this matter, the Board of County Commissioners determines that this project concept is both feasible and desirable. The Board determines that the MXD district satisfies the objectives and requirements set forth in subsections A through G of Frederick County Code, § 1-19-324, with the conditions below. This proposed MXD satisfies the purposes and objectives of the MXD district. This proposed MXD allows for the introduction of a mixture of uses in an integrated manner while encouraging an efficient use of the land. This proposal also creates an environment that ensures the integration and compatibility of the project with existing and proposed surrounding development.

This site has a classification of at least W4/S4 on the County Water and Sewerage Plan, and the site is consistent with the “community concept” of development as described in the County Comprehensive Plan. The proposed site is feasible for the MXD district and satisfies the MXD purpose, objectives and standards. The proposed MXD, with conditions, is compatible with the existing uses in the neighborhood and with the proposed uses for the neighborhood as shown on the County Comprehensive Plan.

The maximum permitted land use mix percentage for the commercial and residential components shall be 34% of the gross project acreage (27.7 acres).

The proposed MXD Floating Zone classification will be granted subject to the conditions stated below.

ORDINANCE

BE IT ENACTED AND ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF FREDERICK COUNTY, MARYLAND, that for the reasons set forth above, Rezoning Case No. R-05-10 is hereby **GRANTED** for the reclassification of 81.1 acres, more or less (as delineated in the record), from the Office/Research/Industrial (ORI) zone to the Mixed Use Development (MXD) Floating Zone, subject to the following conditions¹:

1. The land use mix of the project shall be:
 - a. The maximum amount of residential land use in the MXD shall be 18.7 acres (375) dwelling units.

¹ The term “developer” or “applicant” as used in this Ordinance includes all present and future owners and developers of the property. These conditions run with the land.

- b. The maximum amount of commercial land use in the MXD shall be 9.0 acres (90,000 sq. ft.)
 - c. The minimum amount of employment land use in the MXD shall be 32.0 acres.
 - d. The minimum amount of open space land use in the MXD shall be 13.8 acres.
- 2. No building permits for structures within the Jefferson Park West MXD will be issued until the US 340/15 interchange -- to be constructed by the developers of the Jefferson Technology Park -- is under construction and within 12 months of the estimated completion date.
 - 3. The Frederick County Planning Commission must approve the architectural and streetscape guidelines for the project before any final plats are recorded.
 - 4. As part of the Phase II MXD approval process, the applicant shall cooperate with Frederick County staff to identify and incorporate design elements into the project that ensure the development is capable of being serviced by public transportation.

The conditions included as part of the granting of this MXD floating zone request are deemed necessary for the health, safety and welfare of the community; are imposed as an integral part of this approval; and are not separable from the decision to grant the requested floating zone classification. If, for any reason, a court of competent jurisdiction finds that any material portion of any of these

conditions is substantially invalid or unenforceable, the zoning shall revert to the previous Office Research Industrial (ORI) zoning classification.

AND BE IT FURTHER ENACTED AND ORDAINED BY THE BOARD, that the Zoning Administrator is hereby authorized and directed to make the appropriate change on the Zoning Map showing this reclassification, with conditions, as indicated above.

The undersigned hereby certify that this Ordinance was approved and adopted on the 16th day of November, 2006.

BOARD OF COUNTY COMMISSIONERS
OF FREDERICK COUNTY, MARYLAND

By: Michael L. Cady
Michael L. Cady, Vice President

John R. Lovell, Jr.
John R. Lovell, Jr.

ATTEST:

Douglas D. Browning
Douglas D. Browning
County Manager

Bruce L. Reeder
Bruce L. Reeder

Commissioner Jan H. Gardner voted against the proposed reclassification.
Commissioner John L. Thompson, Jr was absent.

MSC 11/16/06